

**CAIN & HERREN, ALC
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*Attorneys for Defendants OWEN H. D'SOUZA, NORMA C. D'SOUZA, and
PICASSO TRIGGER COMPANY LLC*

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

JTH Tax LLC, doing business as
Liberty Tax Service,

Plaintiff,

vs.

OWEN H. D'SOUZA; NORMA C.
D'SOUZA; PICASSO TRIGGER
COMPANY LLC,

Defendants.

1:20-CV-00087 JAO-KJM
(840 Trademark)

AFFIRMATIVE DEFENSES

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FIRST DEFENSE

1. Plaintiff failed to attach the underlying agreement, so the Complaint should be dismissed for failure to state a claim upon which relief can be granted.

SECOND DEFENSE

2. Plaintiff(s) willingly, knowingly or voluntarily assumed the risk of the incidents and any injuries and/or damages they may have sustained as alleged in the Complaint.

THIRD DEFENSE

3. If Plaintiff was injured and/or damaged as alleged in the Complaint, such injuries and/or damages were caused or contributed to by negligence on the part of Plaintiff.

FOURTH DEFENSE

4. Plaintiffs claims are barred by Chapters 490, 560, 657, et.seq. of the Hawaii Revised Statutes.

FIFTH DEFENSE

5. Plaintiff's claims are barred by the applicable statute(s) of limitations.

SIXTH DEFENSE

6. Plaintiff's claims are barred by the operation of the doctrine(s) of laches, waiver or estoppel.

SEVENTH DEFENSE

7. Plaintiff has failed to name or join certain necessary or indispensable parties to this action.

EIGHTH DEFENSE

8. Plaintiff lacks personal jurisdiction and/or subject matter jurisdiction over the Defendant.

NINTH DEFENSE

9. The Complaint fails to state a claim against the Defendant upon which relief can be granted.

WHEREFORE, DEFENDANTS OWEN H. D'SOUZA, NORMA C. D'SOUZA, and PICASSO TRIGGER COMPANY LLC hereby request that this Honorable Court DISMISS WITH PREJUDICE the Complaint, award the Defendants costs and fees for defending this suit, and enter any such order and relief that the Court may deem fit.

Dated: Wailuku, Maui, Hawaii, Tuesday, January 26, 2021.

CAIN & HERREN, ALC



Michael J. Collins, Esq.
Attorneys for Defendants
OWEN H. D'SOUZA,
NORMA C. D'SOUZA, and
PICASSO TRIGGER COMPANY LLC